

<b>PRE-APPEAL BRIEF REQUEST FOR REVIEW</b>		Docket Number (Optional) IDF 1560 (4000-03400)																	
I hereby certify that this correspondence is being deposited with the United States Postal Service with sufficient postage as first class mail in an envelope addressed to "Mail Stop AF, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450" [37 CFR 1.8(a)]  on _____  Signature _____  Typed or printed name _____	Application Number  10075336		Filed  2002-02-13																
	First Named Inventor  Kenneth Charles Boydston																		
	Art Unit  3685		Examiner  Cristina O. Sherr																
<p>Applicant requests review of the final rejection in the above-identified application. No amendments are being filed with this request.</p> <p>This request is being filed with a notice of appeal.</p> <p>The review is requested for the reason(s) stated on the attached sheet(s). Note: No more than five (5) pages may be provided.</p> <p>I am the</p> <table style="width: 100%;"><tr><td style="width: 50%; vertical-align: top;"><input type="checkbox"/> applicant/inventor.</td><td style="width: 50%; vertical-align: top;">/Michael W. Piper/</td></tr><tr><td style="vertical-align: top;"><input type="checkbox"/> assignee of record of the entire interest. See 37 CFR 3.71. Statement under 37 CFR 3.73(b) is enclosed. (Form PTO/SB/96)</td><td style="vertical-align: top;">Signature</td></tr><tr><td style="vertical-align: top;"><input checked="" type="checkbox"/> attorney or agent of record. Registration number 39800</td><td style="vertical-align: top;">Michael w. Piper</td></tr><tr><td style="vertical-align: top;"><input type="checkbox"/> attorney or agent acting under 37 CFR 1.34. Registration number if acting under 37 CFR 1.34 _____</td><td style="vertical-align: top;">Typed or printed name</td></tr><tr><td></td><td style="vertical-align: top;">972.731.2288</td></tr><tr><td></td><td style="vertical-align: top;">Telephone number</td></tr><tr><td></td><td style="vertical-align: top;">June 21, 2010</td></tr><tr><td></td><td style="vertical-align: top;">Date</td></tr></table> <p>NOTE: Signatures of all the inventors or assignees of record of the entire interest or their representative(s) are required. Submit multiple forms if more than one signature is required, see below*.</p>				<input type="checkbox"/> applicant/inventor.	/Michael W. Piper/	<input type="checkbox"/> assignee of record of the entire interest. See 37 CFR 3.71. Statement under 37 CFR 3.73(b) is enclosed. (Form PTO/SB/96)	Signature	<input checked="" type="checkbox"/> attorney or agent of record. Registration number 39800	Michael w. Piper	<input type="checkbox"/> attorney or agent acting under 37 CFR 1.34. Registration number if acting under 37 CFR 1.34 _____	Typed or printed name		972.731.2288		Telephone number		June 21, 2010		Date
<input type="checkbox"/> applicant/inventor.	/Michael W. Piper/																		
<input type="checkbox"/> assignee of record of the entire interest. See 37 CFR 3.71. Statement under 37 CFR 3.73(b) is enclosed. (Form PTO/SB/96)	Signature																		
<input checked="" type="checkbox"/> attorney or agent of record. Registration number 39800	Michael w. Piper																		
<input type="checkbox"/> attorney or agent acting under 37 CFR 1.34. Registration number if acting under 37 CFR 1.34 _____	Typed or printed name																		
	972.731.2288																		
	Telephone number																		
	June 21, 2010																		
	Date																		
<input type="checkbox"/> *Total of _____ forms are submitted.																			

This collection of information is required by 35 U.S.C. 132. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11, 1.14 and 41.6. This collection is estimated to take 12 minutes to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. **SEND TO: Mail Stop AF, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.**

*If you need assistance in completing the form, call 1-800-PTO-9199 and select option 2.*

## Privacy Act Statement

The **Privacy Act of 1974 (P.L. 93-579)** requires that you be given certain information in connection with your submission of the attached form related to a patent application or patent. Accordingly, pursuant to the requirements of the Act, please be advised that: (1) the general authority for the collection of this information is 35 U.S.C. 2(b)(2); (2) furnishing of the information solicited is voluntary; and (3) the principal purpose for which the information is used by the U.S. Patent and Trademark Office is to process and/or examine your submission related to a patent application or patent. If you do not furnish the requested information, the U.S. Patent and Trademark Office may not be able to process and/or examine your submission, which may result in termination of proceedings or abandonment of the application or expiration of the patent.

The information provided by you in this form will be subject to the following routine uses:

1. The information on this form will be treated confidentially to the extent allowed under the Freedom of Information Act (5 U.S.C. 552) and the Privacy Act (5 U.S.C. 552a). Records from this system of records may be disclosed to the Department of Justice to determine whether disclosure of these records is required by the Freedom of Information Act.
2. A record from this system of records may be disclosed, as a routine use, in the course of presenting evidence to a court, magistrate, or administrative tribunal, including disclosures to opposing counsel in the course of settlement negotiations.
3. A record in this system of records may be disclosed, as a routine use, to a Member of Congress submitting a request involving an individual, to whom the record pertains, when the individual has requested assistance from the Member with respect to the subject matter of the record.
4. A record in this system of records may be disclosed, as a routine use, to a contractor of the Agency having need for the information in order to perform a contract. Recipients of information shall be required to comply with the requirements of the Privacy Act of 1974, as amended, pursuant to 5 U.S.C. 552a(m).
5. A record related to an International Application filed under the Patent Cooperation Treaty in this system of records may be disclosed, as a routine use, to the International Bureau of the World Intellectual Property Organization, pursuant to the Patent Cooperation Treaty.
6. A record in this system of records may be disclosed, as a routine use, to another federal agency for purposes of National Security review (35 U.S.C. 181) and for review pursuant to the Atomic Energy Act (42 U.S.C. 218(c)).
7. A record from this system of records may be disclosed, as a routine use, to the Administrator, General Services, or his/her designee, during an inspection of records conducted by GSA as part of that agency's responsibility to recommend improvements in records management practices and programs, under authority of 44 U.S.C. 2904 and 2906. Such disclosure shall be made in accordance with the GSA regulations governing inspection of records for this purpose, and any other relevant (*i.e.*, GSA or Commerce) directive. Such disclosure shall not be used to make determinations about individuals.
8. A record from this system of records may be disclosed, as a routine use, to the public after either publication of the application pursuant to 35 U.S.C. 122(b) or issuance of a patent pursuant to 35 U.S.C. 151. Further, a record may be disclosed, subject to the limitations of 37 CFR 1.14, as a routine use, to the public if the record was filed in an application which became abandoned or in which the proceedings were terminated and which application is referenced by either a published application, an application open to public inspection or an issued patent.
9. A record from this system of records may be disclosed, as a routine use, to a Federal, State, or local law enforcement agency, if the USPTO becomes aware of a violation or potential violation of law or regulation.

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE**

Appellants:	Kenneth Charles Boydstun, et al.	§	
		§	Group Art Unit: 3685
Serial No.:	10/075,336	§	
		§	Examiner: Sherr, Cristina O.
Filed:	February 13, 2002	§	
		§	Confirmation No.: 8714
For:	METHOD AND SOFTWARE FOR MIGRATING	§	
	PROTECTED AUTHENTICATION DATA	§	

**REASONS FOR REQUESTING PRE-APPEAL REVIEW**

In the Final Office Action dated March 31, 2010 (“Final Office Action”), claim 22 was rejected under 35 USC § 103(a) as being unpatentable over Sampson et al., U.S. Pat. No. 6,429,624 (“Sampson”) in view of Blakley, III et al., U.S. Pat. No. 5,832,211 (“Blakley”). Appellants respectfully submit that the Final Office Action had a clear error because the applied art, alone or in combination, does not disclose all of the limitations recited in claim 22. Claims 23-35 depend from claim 22. Therefore, the arguments presented below in support of patentability for claim 22 apply to and are repeated for claims 23-35 as well. Also, Appellants submit that Mehring, et al. U.S. Pat. No. 6,609,115 does not cure the deficiencies of Sampson and Blakley noted below. Thus, for the reasons specified below, Appellants respectfully request allowance of claims 22-35.

I. Sampson in view of Blakley does not teach or suggest capturing the password provided to the source user authenticator, monitoring the source user authenticator for an approval response and populating the target datastore with the captured password upon receipt of an approval response.

Claim 22 of the pending application recites in part:

using the source user authenticator to prompt for and receive the identification and a password from the user, the target user authenticator: monitors the source user authenticator for an approval response, and upon an

approval response from the source user authenticator, captures the password provided to the source user authenticator by the user in response to prompting by the source authenticator, populates the target datastore with the captured password, and associates the captured password with the corresponding identification.

Thus, migrating password data from a source (or first) datastore to a target (or second) datastore according to the method of claim 22 may be accomplished without decrypting the password data stored in the source datastore and copying the decrypted password data to the target datastore. Rather, the interceptor captures the password provided by the user to the source user authenticator in response to prompting by the source user authenticator and waits to see whether the source user authenticator approves the user. If the source user authenticator approves the user's password, then the target user authenticator can populate its own datastore with the captured password knowing that the captured password is authentic. In some cases, the password data may be stored in the source datastore as, for example, a hash or other format that is not subject to being decrypted. However, such a method of storage is no impediment for migrating password data from the source datastore to the target datastore according to the method of claim 16 since no decryption is necessary. The only requirement is that the source user authenticator is still functioning such that it is able to verify that the entered password is authentic.

The Final Office Action acknowledges that Sampson does not teach these elements of claim 16 recited above, but alleges that Blakley does disclose these elements. See, Final Office Action, pp. 4-5. Appellants respectfully disagree. In contrast to claim 22, Blakley requires that passwords stored in a first datastore be decrypted and then passed as plain text passwords to the second datastore. See, for example, Blakley, column 8, which states that "if the value is identified, the password synchronization server retrieves client W's password from the password

repository and decrypts it. Next, in block **450**, the password synchronization server returns client W's password to foreign registry Z." This is a completely different method for transferring password data from one repository to another and is inapplicable to systems in which the password is stored as, for example, a hash, which is an item typically not capable of being decrypted.

II. Neither Sampson nor Blakley teach or suggest migrating password data from a source datastore to a target datastore.

Claim 22 of the pending application recites "migrating the source datastore to the target datastore, wherein the source datastore comprises user identification data and user authentication data, wherein the source datastore is associated with a source user authenticator, wherein the target datastore is associated with a target user authenticator, and wherein the target user authenticator is in communication with the source user authenticator." The Final Office Action alleges that Sampson discloses this feature citing various passages in columns 6, 7, and 17. See, Final Office Action, p. 4. Appellants respectfully disagree with this assertion. Sampson relates to a system that controls access to information resources. (See, Sampson, Abstract). Sampson discloses a session manager that determines whether the client is involved in an authenticated session with any access server in the system. If so, the client is permitted to access the resources without logging in to the specific access server that is associated with the protected server. Thus, Sampson merely teaches a single sign-on system such that a user only has to authenticate themselves once rather than multiple times even though the system may include multiple protected resources requiring authentication. Sampson does not disclose migrating identification and authentication (e.g., password) data from a source datastore to a target datastore. In fact, Sampson is completely unconcerned with migrating data of any type at all. Sampson is simply

concerned with providing a single sign-on for a user so that the user does not have to log in multiple times in order to access various protected resources in the system. Such a system is unrelated to migrating authentication data from one datastore to another without requiring a user to re-enroll.

Blakley does not cure this deficiency in Sampson. Blakley provides password synchronization between a main data store and a plurality of secondary data stores. (See, for example, Blakley, Abstract). This enables the user to maintain a single, unique password among the plurality of secondary datastores. Thus, Blakley uses a password synchronization server to store user names and plain-text passwords securely and to respond to requests from secondary datastores for their retrieval. The passwords are sent to the secondary datastores using encryption that is decipherable by the secondary datastores. However, notably absent from Blakley is any teaching or suggestion of migrating data from a source datastore to a target datastore. Note that data migration is not equivalent to data replication. Also, Blakley does not address the problem of migrating from one vendor's proprietary encryption scheme to another vendor's product without having every user re-enter their security information and without decrypting the data stored in the first vendor's product.

For at least the reasons established in sections I and II, Appellants respectfully submit that the Final Office Action contains clear errors and submit that independent claim 22 is not taught or suggested by Sampson in view of Blakley and respectfully request allowance of this claim.

**Conclusion**

Appellants respectfully submit that the Final Office Action had clear errors because all of the limitations of the claims clearly were not met by the applied art for the reasons stated above. Accordingly, Appellants respectfully request prosecution to be reopened and Appellants respectfully submit that the present application is in condition for allowance.

The Commissioner is hereby authorized to charge payment of any further fees associated with any of the foregoing papers submitted herewith, or to credit any overpayment thereof, to Deposit Account No. 21-0765, Sprint.

Respectfully submitted,

Date: June 21, 2010

/Michael W. Piper/

Michael W. Piper  
Reg. No. 39,800

CONLEY ROSE, P.C.  
5601 Granite Parkway, Suite 750  
Plano, Texas 75024  
(972) 731-2288  
(972) 731-2289 (facsimile)

ATTORNEY FOR APPELLANTS